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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

JACOB MANDEL; CHARLES VOLK; LIAM
KERN; MASHA MERKULOVA; AARON
PARKER; and STEPHANIE ROSEKIND,

Plaintiffs,

v.

BOARD OF TRUSTEES of the CALIFORNIA
STATE UNIVERSITY; SAN FRANCISCO
STATE UNIVERSITY; LESLIE WONG; MARY
ANN BEGLEY; LUOLUO HONG; LAWRENCE
BIRELLO; REGINALD PARSON; OSVALDO
DEL VALLE; KENNETH MONTEIRO; RABAB
ABDULHADI; BRIAN STUART; ROBERT
NAVA; MARK JARAMILLA; VERNON
PICCINOTTI; and SHIMINA HARRIS,

Defendants.

Case No. 17-cv-3511-WHO

**PLAINTIFFS' RESPONSE TO
PROPOSED AMICI JEWISH STUDIES
SCHOLARS' UNAUTHORIZED
REPLY BRIEF MISFILED AS A
"FINAL MOTION" (ECF 112)**

1 On Friday, November 3, 2017, David L. Mandel, counsel for proposed Amici “Jewish
2 Studies Scholars,” filed what purported to be a “Final MOTION re [106] Opposition/Response to
3 Motion filed by Amici Curiae: Jewish Studies Scholars” on ECF. ECF 112. Notwithstanding the
4 docket text, and the calculation of new response and reply dates (ECF 112), the caption of this
5 document reveals that it is not in fact a motion but rather is a “Reply to Plaintiffs’ Opposition” to the
6 motion for leave to file an amicus brief (ECF 106).

7 Such reply briefs are not permitted. By operation of Civil Local Rule 7-11(c), “a Motion for
8 Administrative relief is deemed submitted for immediate determination without hearing on the day
9 after the opposition is due.” Plaintiffs’ Opposition was due and was filed on October 29, 2017 (ECF
10 106) and proposed Amici’s motion was thus deemed submitted for immediate determination on
11 October 30, 2017. Thereafter, “[u]nless otherwise ordered” by the Court, no further submissions
12 were appropriate, and no such order has been made.

13 Copying all counsel of record, Plaintiffs’ counsel wrote to proposed Amici’s counsel Mr.
14 Mandel via email, on Friday, November 3, informing him that, based on Civil Local Rule 7-11, his
15 “Final Motion” was an unauthorized reply brief, and requesting that the reply brief be voluntarily
16 withdrawn. Having received no response for several days, Plaintiffs’ counsel called Mr. Mandel on
17 the morning of Tuesday, November 7, to follow up and inquire whether he had received the email.
18 Mr. Mandel indicated that he did receive the email and was still considering how to respond. At
19 approximately 3:45 p.m. on November 7, Mr. Mandel responded to indicate that he would not be
20 withdrawing the “Final Motion” because he did not agree that Rule 7-11(c) applied.

21 Because Rule 7-11 requires any opposition to a motion for administrative relief to be filed no
22 later than 4 days after the motion is filed, Plaintiffs’ file this Opposition to the “Final Motion” today
23 on the grounds that the “Final Motion” is an unauthorized reply brief, and ask that the Court deny
24 the “Final Motion” on that ground. Plaintiffs further request that the Court deny the motion for leave
25 to file an amicus brief (ECF 100), for the reasons stated in Plaintiffs’ Opposition (ECF 106) and
26 based on these procedural violations of this Court’s Local Rules. Plaintiffs concurrently submit a
27 proposed order to that effect.

1 DATED: November 7, 2017

Respectfully submitted,

2 WINSTON & STRAWN LLP

3 By: /s/ Seth Weisburst

4 Seth Weisburst

5 Attorneys for Plaintiffs

6 JACOB MANDEL, CHARLES VOLK,

7 LIAM KERN, MASHA MERKULOVA,

AARON PARKER and STEPHANIE ROSEKIND